

REMARKS

This Response is being filed to address the final Office Action having a mailing date of February 24, 2004. Independent claims 1, 5, and 9 are amended as shown to more precisely recite certain distinctive features. No new matter has been added. With this amendment, claims 1-19 are pending in the application.

The applicants would like to thank Examiner McCartney and Examiner Zimmerman for taking the time to conduct a telephonic interview with the undersigned attorney on April 5, 2004. The applicants would also like to thank Examiners McCartney and Zimmerman for further taking the time from their busy schedule to thoroughly review the issues outlined by the undersigned attorney in the Applicant-Initiated Interview Request Form, to review the prior art, and to review the present application. The applicants greatly appreciate the helpful suggestions provided by the Examiners during the telephonic interview as to how the claims may be amended to overcome the cited references.

In accordance with the suggestions by the Examiners, independent claims 1, 5, and 9 are amended to recite “automatically positioning nodes within feature locations on the front head image and the side head image, including at least one node substantially centered within an interior of a feature location.” As discussed during the telephonic interview, this amendment to recite a node substantially centered within an interior of a feature location better defines the “within” terminology in the claims and distinguishes over Lee, in that Lee discloses anchor points that lie on the edge or just slightly interior of an edge of a feature location (*see, e.g.,* Figure 2 of Lee). However, Lee does not disclose, teach, or suggest positioning at least one node substantially centered within an interior of a feature location.

That is, Lee uses structured snakes that use as anchor points along the contour edges of a feature location (such as hair), and then the points are connected together to outline the contour of the feature location (*see, e.g.,* Figure 1 and Figure 2 of Lee). By using these “structured snakes,” Lee requires that the lines connecting the points lie adjacent to the edges of the feature locations so as to better outline the boundaries of the feature locations. It simply does not make sense with the technique of Lee to place an anchor point substantially centered within an interior of a feature location, because the resulting associated structured snake would need to

traverse a great distance into the interior of the feature location, which is inconsistent with using the structured snake to outline the general shape of the feature location. In essence, the outlined feature location would lose its structure.

Support for these amendments to independent claims 1, 5, and 9 can be found, for instance, in Figures 2 and 4 of the present application. In these figures, at least one node is shown clearly positioned substantially centered within the interior of the person's hair. Moreover, in the front image 30, node locations are clearly shown as being substantially centered within the interior of the forehead and within the interior of the nose of the person. In the side profile image 32, at least one node is substantially centered within the interior of the person's cheek and neck. Again, no such features are disclosed, taught, or suggested by Lee, which places all of the anchor points for the structured snakes adjacent to the edges of the feature locations, and not substantially centered within an interior of the feature location. Therefore, independent claims 1, 5, and 9 are now allowable.

With regards to the other issues outlined in the Applicant-Initiated Interview Request Form, the applicants have chosen not to amend the claims at this time to recite the "key frame" feature. With regards to the rejection of claims 14-16 on the basis of the Cootes article, the applicants appreciate that Cootes does in fact use a type of linear regression. However, the applicants reserve the right to antedate Cootes on the basis of this or other features, if necessary in subsequent Office Actions, or to otherwise argue distinctions between the claims and what is disclosed in Cootes. Claims 14-16 are now allowable based on their dependency on an allowable base claim.

An Information Disclosure Statement, form PTO 1449, and a copy of reference WO 98/01830 is enclosed along with this response. The listed reference WO 98/01830 was previously submitted by the applicants in an IDS on December 27, 2001. However, in the initialed list of references sent with the Office Action of July 16, 2003, this particular reference was crossed out by the Examiner. It is believed that the copy of this reference was lost during transit. Accordingly, the applicants are resubmitting this reference so that it may be properly considered by the Examiner. It is believed that a fee is not required for this IDS submission since the reference was already previously submitted in an IDS. During the telephonic interview,

the Examiner further noted that he has now reviewed and considered the 89 references submitted in the IDS of November 27, 2001, and that the initialed form PTO 1449 having these references listed thereon will be returned with the next communication.

Also enclosed with this response is a Correction of Error in Small Entity Status. By way of background, on December 16, 2003, the applicants filed an amendment and a petition and fee for a two-month extension of time. At the time of filing the amendment and petition, small entity status was established in good faith. However, it was later discovered that status as a small entity was established in error. Therefore, in accordance with 37 C.F.R. § 1.28(c), the applicants request the USPTO to excuse this error and to change the status of the applicants to a large entity. A check in the amount of \$210 to cover the prior deficiency for the extension fee is enclosed, and the fees are itemized as shown in the attached documentation.

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, the independent claims are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 622-4900.

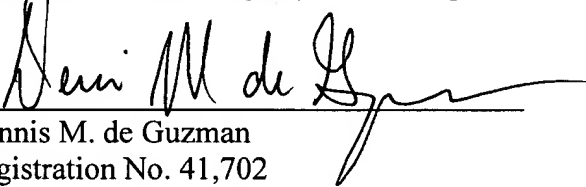
The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

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All of the claims remaining in the application are now clearly allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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Enclosures:

Postcard
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Copy of WO 98/01830
Correction of error in small entity status

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